

# EXHIBIT C



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1 P R O C E E D I N G S

2 (Jury out.)

3 COURT SECURITY OFFICER: All rise.

4 THE COURT: Please be seated.

5 All right. Counsel, is there anything we need to  
6 take up before I bring in the jury and begin with my  
7 preliminary instructions?

8 MR. TINDEL: Not from the Plaintiff, Your Honor.

9 MR. GILLAM: Nor from the Defendants, Your Honor.

10 THE COURT: All right. Then if you'll bring in the  
11 jury, please.

12 COURT SECURITY OFFICER: All rise for the jury.

13 (Jury in.)

14 THE COURT: Welcome back from lunch, ladies and  
15 gentlemen. Please be seated.

16 Ladies and gentlemen, I have some preliminary  
17 instructions that I'd like to give you before we start with  
18 opening statements from the lawyers and then move on to the  
19 evidence.

20 You've now been sworn as the jurors in this case,  
21 and as the jury, you are the sole judges of the facts. As  
22 such, you will decide and determine all of the facts in this  
23 case.

24 As the Judge, I will give you instructions on the  
25 law, decide questions of law that arise during the trial,

1 incorporating the little company known as Innovative --  
2 Innovative Industries. And it was identified as Innovative  
3 Intelcom Industries. Intelcom is important because that  
4 means we named the company after an objective we had, was to  
5 create products that had -- that performed intelligent  
6 communications, that's what Intel stands for.

7 Q. And what was the purpose of this company, Mr. Salazar?

8 A. The purpose of the company was to find investment  
9 capital. Obviously, we need money to continue -- not only  
10 to continue the preparation of patent application, but we  
11 needed money to begin to do prototypes, developments. And  
12 so we formed this company as a California C corporation,  
13 known as a corporation doing business in California, and  
14 that's the name of the company. And the purpose.

15 Obviously, the second -- the second and maybe more  
16 important purpose to do business was to develop the --  
17 the -- the -- the -- a device that reflected the  
18 requirements of the patent.

19 Q. Did you pursue products through this company,  
20 manufacturing of products?

21 A. Yes, we did.

22 Q. Can you explain which products?

23 A. We did. However, we -- the -- we pursued a very  
24 specific and well-known strategy in business for new  
25 companies, especially where research and development is

1 required. The first thing you do after you have enough  
2 definition, what it is you wanted to do, you then begin to  
3 prove that you can do it, and you do that by developing  
4 prototypes.

5 They're not complete devices that reflect the  
6 entire patent or description and be a part of it. So we  
7 began to develop in effect prototypes trying to prove  
8 different things, different things that we needed to know.

9 And we continued that through the first four products, I  
10 believe.

11 Q. Did you have investors for this?

12 A. Yes, we did. Had investors. We raised enough money to  
13 do what we had to do up to that point, but not enough to  
14 finish it.

15 MR. KEYHANI: Could we pull up Exhibit 249?

16 Q. (By Mr. Keyhani) Mr. Salazar, do you recognize the  
17 product depicted in Plaintiff's Exhibit 249?

18 A. Yes, I do.

19 Q. What product is this?

20 A. This is the -- I believe this is the product we did for  
21 Hughes Network Systems, that they used for their DirecTVC --  
22 DirecTV operation.

23 MR. KEYHANI: And can we go to the second page of  
24 this exhibit, please?

25 Q. (By Mr. Keyhani) Can you tell us whether you put your

1 patent number on this product?

2 A. Yes, it is on it.

3 Q. Where -- where on the product is -- is this patent  
4 number?

5 A. It's on the base.

6 Q. And can you explain to the jury and the Court how this  
7 system worked? In simple terms.

8 A. Yeah, the system is comprised of two elements. One is a  
9 handset, and one is the base.

10           The base was needed in order to communicate to the  
11 telephone system. The handset was capable of talking to the  
12 base, but in order to connect to the telephone system, we  
13 needed a base to connect the wire to it. So you can speak,  
14 you could activate the phone through your handset, perform  
15 all of the telephone operations that were required. And --  
16 and then from the handset, that information -- or  
17 information was transmitted to the base, and the base then  
18 put it on to the telephone line.

19           The base also received return information of the  
20 call you had just received, and that base then transferred  
21 that same call or information to your handset. And you  
22 could use that hand -- handset then to conduct your  
23 communication.

24 Q. Mr. Salazar, can you tell the jury and the Court whether  
25 the handset by itself could function as a product?

1 A. No, not completely because the requirement was for the  
2 base to also communicate in infra-red -- for example, to  
3 control an appliance -- some appliance, some entertainment  
4 appliance, and the handset could not operate by itself  
5 because it needed the base to do the voice communication,  
6 and it also needed the base to charge itself with.

7 Q. Can you tell us if this product -- you call it the  
8 Hughes product?

9 A. Yes.

10 Q. If this product embodied your invention as you  
11 understand it in your -- in your patent?

12 A. No, it did not.

13 Q. And can you tell us why?

14 A. It did not incorporate all of the attributes or -- or  
15 features required by the patent.

16 Q. For example, what particular features it did not embody?

17 A. It did not embody -- one of the things required in a  
18 patent is two-way infra-red communications, sending  
19 infra-red signals out, and we can receive infra-red  
20 signal -- signals back.

21 This product could -- could not receive infra-red  
22 signals back.

23 Q. What other features did it not incorporate that were  
24 part of your invention as you understand?

25 A. Well, it did not include the capability to create new



1 command and control codes, for example.

2 Q. Is that what you referred to as intelligence?

3 A. Yes.

4 Q. Can you explain that?

5 A. In order to -- in order to create new command and  
6 control codes, you need a way to do that very smartly, kind  
7 of a complex -- not a simple thing to do. But you have to  
8 find -- you have to -- need a way to create not only one but  
9 maybe a number of codes because if you have a new or even an  
10 old device, appliance, for example, an entertainment device,  
11 there are a number of control codes that are different for  
12 each possible function. You have -- you have volume up,  
13 volume down, or you have on or off or have channel up or  
14 channel down, or it could have been executing a pay-per-view  
15 or you could have performed a number of functions.

16 To create this new code, you had to have a way to  
17 do it very, very smartly, kind of -- we describe that as an  
18 intelligent way. There's an algorithm that then -- that's  
19 required for our patent. It has to be employed or a similar  
20 algorithm -- method has to be employed in order to do that  
21 work.

22 Q. Are you speaking about -- are you talking about creating  
23 command codes?

24 A. Yes.

25 Q. Mr. Salazar, why is your patent number on this product

1 when you said it does not embody all the features of your  
2 patent?

3 A. The reason we did that is because we thought that we had  
4 to -- call that ignorance if you like, basically we thought  
5 we had to -- or could -- could do it without any problem.

6 Secondly, there was some attributes or features in  
7 this product we put together that in our mind needed  
8 protection. Rightfully or wrongfully, that's what we  
9 thought.

10 MR. KEYHANI: Can we take a look at Exhibit 251,  
11 please -- what's been admitted as Plaintiff's Exhibit 251?

12 And if you could kindly go to the second page, Mr.  
13 Mart, please.

14 Q. (By Mr. Keyhani) Mr. Salazar, do you recognize this  
15 device?

16 A. Yes, I do.

17 Q. And can you explain to us what this device is?

18 A. This is a -- it's called the 650D, Version 650, a number  
19 we assigned to it. We put this product together for several  
20 different reason -- not technology, per se. We put this  
21 product together because we were looking for a way to make a  
22 similar product or the final product at low cost. So we  
23 contracted a manufacturer in -- in China to put together  
24 this product at the lowest cost possible. It's effective of  
25 over half lower than the other previous prototypes that we

1 had built.

2 Q. And, Mr. Salazar, about what year did you manufacture  
3 this product?

4 A. '58, '59, I'm not sure.

5 Q. I think you may want to think about that, if that's  
6 correct, that date?

7 MR. KEYHANI: Your Honor --

8 A. No, the -- the first product we developed was a Hughes  
9 product that was shown earlier. This was the second one.

10 Q. (By Mr. Keyhani) Okay. This is the second version of  
11 the product?

12 A. Yes, the second version of the product.

13 Q. Can you tell us whether this version of the product  
14 embodied all the features of your invention?

15 A. No, it did not.

16 Q. And can you explain why?

17 A. Again, fundamentally because the technology was not  
18 there in the industry. We needed components. We needed a  
19 lot of things in order to -- to develop the -- the vision  
20 that we had, the requirement that we had for a full-blown  
21 communications, command and sensing system. And so we were  
22 prototyping, basically. This prototype was done for an  
23 economic reason. We wanted to know if we could build it at  
24 a lower cost.

25 Q. And what features of your invention, as you understand

1 it, were not incorporated into this product?

2 A. Okay. Particularly, it did not have the two-way  
3 infra-red communications. It could only communicate one  
4 way.

5 Q. And what else?

6 A. Secondly, you could not -- you could not use it to  
7 communicate with sensors. You could not -- you could not  
8 up -- update the command and control codes either. So there  
9 were at least three major features of the -- described in  
10 the patent that we could not do.

11 Q. What about that intelligence aspect that you described,  
12 did this product have it?

13 A. No, it did not do that either.

14 Q. Okay.

15 MR. KEYHANI: Can we go to the second page of this,  
16 please?

17 Q. (By Mr. Keyhani) Did you put your patent number on this  
18 product?

19 A. Yes, I did.

20 Q. Can you tell us whether this product handset could  
21 function by itself without the space?

22 A. Without what, sir? Excuse me.

23 Q. I'm sorry. Can you tell us whether the handset of this  
24 product could function separately from the base?

25 A. No.

1 Q. And can you explain why?

2 A. Because, first of all, it required the base to -- for  
3 charging, okay? It also required the base for voice  
4 communications and oral telephone calls.

5 Q. Could the handset operate -- to what extent could the  
6 handset by itself operate as a functional product for the  
7 purposes intended -- as a cell phone at the time?

8 A. It could -- it could not do it -- anything, basically  
9 because the handset is by itself could not communicate  
10 without the base to make telephone calls.

11 Secondly, it could not be recharged.

12 Q. As with the other product that you marked your patent  
13 number on it, was -- was the purpose to -- was the marking  
14 on the base of this to indicate that the whole product was  
15 covered by the patent or just the base?

16 A. Unintentionally, it was intended that we would -- it  
17 would mark the entire product.

18 MR. KEYHANI: Mr. Mart, could we go to Exhibit 259,  
19 please?

20 Q. (By Mr. Keyhani) This has also been admitted into  
21 evidence as Plaintiff's Exhibit 259. Mr. Salazar, can you  
22 tell us whether you recognize this product?

23 A. Yes, I do.

24 Q. What is this product?

25 A. This is the product we designated as MylRemote. This

1 product -- the difference between this and prior products  
2 was that this product operated in a 2.4 gigahertz area.  
3 It's an improvement for a number of reasons, but basically,  
4 that's why we ended up proofing with this product.

5 Q. And did this product embody all the features of your  
6 invention?

7 A. No, it did not.

8 Q. And -- and what particular features, for example, it did  
9 not embody?

10 A. First of all, it did not embody transceiver or two-way  
11 infra-red communications.

12 Q. What else?

13 A. It did not embody the ability to create new remote  
14 control codes from a -- from a parameter set.

15 Q. Is that what you referred to as -- as intelligence form  
16 of --

17 A. Yes, yes.

18 Q. What about sensing?

19 A. It could not -- it could not operate in a sensing mode  
20 either.

21 Q. And now, we've shown you three products. Can you tell  
22 us why none of the products that you manufactured at this  
23 time through I3, your company, could actually practice  
24 the -- the -- all the features of your invention?

25 A. First of all, and most importantly, was that the

1 technology in the industry was not there. For example, to  
2 implement the entire patent would have required something  
3 equivalent to or like Android, the operating system, which  
4 are -- are the -- HTC uses. It's a very critical element in  
5 order to do a complete -- develop a complete communications,  
6 command, control and sensing system.

7           So that was one attribute, but the technology  
8 wasn't there. Even memory -- there was not enough -- or  
9 not -- memory chips or integrated circuits, it did not have  
10 the capacity to perform the entire functionality as required  
11 and defined by our patent.

12 Q. So if you weren't designing products at the time that  
13 embodied all the features of your patent, what was the  
14 purpose of these products? What was the purpose of -- of  
15 developing these products?

16 A. Basically, it was to prove that we were on the right  
17 track, that we could do things, and we were trying to do it  
18 incrementally, and eventually get to a stage where the  
19 technology caught up with us, or we had enough money --  
20 investor's money to go after it all by ourselves.

21 Q. As to the other products, to what extent the handset of  
22 this particular product by itself could function for its  
23 intended purpose?

24 A. Pretty -- pretty much by itself -- by itself to operate  
25 entertainment appliances. It could do that through

1 infra-red control. But it could not perform the telephone  
2 function because it needed the base.

3 Q. What else -- what else did it need the base for?

4 A. Well, not only to connect with the telephone line and  
5 perform the telephone operation, but also to charge the  
6 handset. This handset was discharged. You need -- the only  
7 way to recharge it was to put it on the -- put it on the  
8 base. Or if you were a very clever guy, you could go --  
9 Jerry-rig a little way to do it which can be done. I heard  
10 people were doing that. But consumers would not want to do  
11 that.

12 MR. KEYHANI: Mr. Mart, could we go to the second  
13 page of this exhibit, please?

14 Q. (By Mr. Keyhani) Was this product marked with the  
15 patent number?

16 A. Yes, the base was. I just showed you that.

17 Q. Okay. And also --

18 MR. KEYHANI: Could you go back to the first page?

19 Q. (By Mr. Keyhani) And was the base of this product also  
20 marked, the patent number?

21 A. Yes. The base was marked, yes.

22 Q. And why didn't you mark the handset of this product,  
23 also?

24 A. In my mind at the time, the base and the handset within  
25 its own nature and use, the way it was intended to use, was



1 a system that had to -- that were put together by design to  
2 work together by design. That's how we described, in  
3 effect, kind of a simple system. And so we thought and felt  
4 that all we needed to do was -- was mark the base.

5 Q. And as you said that this product and the two other  
6 products, can you tell us whether they -- any of them, just  
7 in summary, practiced all the features of your invention?

8 A. No, they did not.

9 Q. What did I3 do during the period in which it was in  
10 business, besides the creation of the products? Was that  
11 the main purpose?

12 A. Well, that was the main purpose. Obviously originally,  
13 the first two or three years were to sell issues -- stock,  
14 which we did to raise money.

15 Q. Did you have shareholders?

16 A. Shareholders. Yeah, we had shareholders.

17 Q. Were you a shareholder yourself?

18 A. Yes, I was.

19 Q. Did you invest your own money?

20 A. Yes, I did.

21 Q. Significant amount of money?

22 A. It was to me in those days.

23 Q. How many years of your life did you put in into -- and  
24 time into your patent and into developing these prototypes?

25 A. It's basically from 1993 through 2006.

1 products, whatever it was back at that time, in trying to  
2 compete out there with everyone else, that was not  
3 successful during that time period of around six years; is  
4 that correct?

5 A. It's correct, it was not successful, yes, sir.

6 Q. One of the products that I3 sold during that time was  
7 the Phone 2000?

8 A. Yes, very early, yes.

9 Q. Other products included the Hughes Remote Phone that you  
10 sold from 1999 to 2001?

11 A. That's correct.

12 Q. Another one was the 650D My Remote -- MylRemote that you  
13 sold in 2001?

14 A. That's correct.

15 Q. And the other one was the MylRemote 2003 to 2005?

16 A. That's correct.

17 Q. Now, you told this jury earlier that those phones did  
18 not embody or did not practice the '467 patent, is that what  
19 you're contending today, is those products do not -- or did  
20 not practice the '467 patent?

21 A. I'm -- I'm contending they did not embody the complete  
22 description of the patent. However, it did -- it did embody  
23 some features of it, yes.

24 Q. Well, what you told the world back in 2000 -- or I'm  
25 sorry, 1999 through 2005 was that those products were

1 Exhibit 94.0013, please?

2 Q. (By Mr. Gillam) Mr. Salazar, I wanted to --

3 A. Yes.

4 Q. -- direct your attention to the bottom of this page.

5 A. Yes.

6 Q. This is your signature to the question that we just  
7 talked about. You see that, sir?

8 A. Yes, sir.

9 Q. And you say it says: Pursuant to 28 U.S.C. 1746, I  
10 declare under penalty of perjury under the laws of the  
11 United States of America that the following -- I'm sorry,  
12 that the foregoing is true and correct and that this  
13 declaration was executed on September 1st, 2017?

14 A. Yes, sir.

15 Q. You see that?

16 A. Yes, sir.

17 Q. It means the answer that you gave us about the products  
18 that were covered by the patent that we've just gone over  
19 with -- all those that were marked that you said was signed  
20 off on less than a year ago?

21 A. Yes, I understand that.

22 Q. And this is your signature, isn't it, sir?

23 A. Yes, it is.

24 Q. And so today, what you're telling the jury is what  
25 the -- the patent didn't really cover those products,

1 correct?

2 A. What I'm saying is that the products did not represent  
3 the patent in its entirety.

4 Q. But what you told us on September 1st, 2017, was that  
5 the products were covered by patent, correct?

6 A. Yes, sir.

7 MR. GILLAM: Your Honor, could we approach?

8 THE COURT: Approach the bench.

9 (Bench conference.)

10 MR. GILLAM: Your Honor, I also want to ask him  
11 about -- this is their first amended -- I'm sorry, their  
12 second amended complaint that they filed in this case,  
13 specifically a portion of it that says after the '467 patent  
14 issued in 1998, beginning in 1999, Salazar manufactured and  
15 sold products that embody the invention disclosed and  
16 claimed in the '467 patent, and then talks about the  
17 marking.

18 So this is just further evidence that they, in  
19 fact, have taken the position until today, that the '467  
20 patent embodies --

21 MR. KEYHANI: Your Honor, that's -- that's not  
22 correct.

23 THE COURT: Why is it not correct, Mr. Keyhani?

24 MR. KEYHANI: Because for the first time,  
25 Defendants pose an affirmative defense in March of marking

1 A. That's correct, yes, sir.

2 Q. And did you -- did you mark these products to mislead  
3 the public, Mr. Salazar?

4 A. Of course not, no, sir.

5 Q. And the answer to your interrogatory, if we pull it up,  
6 it says the products were marked. Did you -- did you  
7 understand that -- that that interrogatory meant that you  
8 have to embody every feature of your patent to be marked?

9 A. No, I did not.

10 Q. So is it -- is it -- is it your testimony here today,  
11 Mr. Salazar, that your marking of the products and your  
12 response to interrogatory is -- if it's an error, it's  
13 because of an innocent error; is that correct?

14 A. That's correct, yes, sir.

15 Q. And you were not trying to mislead the public or the  
16 jury today with respect to this testimony, were you, Mr.  
17 Salazar?

18 A. No, sir, not at all.

19 Q. Do you have any legal background that -- that would  
20 allow you to know what the specific rules are with respect  
21 to marking of products and whether if it's a feature of your  
22 product -- of your patent or all the features, whether you  
23 should mark it?

24 A. No, I do not.

25 Q. Mr. Salazar, HTC Corporation's counsel here was asking

CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true and correct transcript from the stenographic notes of the proceedings in the above-entitled matter to the best of my ability.

/s/ Shelly Holmes

SHELLY HOLMES, CSR, TCRR  
Official Court Reporter  
State of Texas No.: 7804  
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